

NOT FOR PUBLICATION

SEP 07 2004

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JORGE VALIENTE MARTINEZ,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-73454

Agency No. A70-547-039

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 24, 2004**
San Francisco, California

Before: SCHROEDER, Chief Judge, GOODWIN, and TASHIMA, Circuit Judges.

Jorge Valiente-Martinez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' summary affirmance of the

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Immigration Judge's ("IJ") denial of his applications for asylum and withholding of removal. He concedes deportability, but asserts that his former service with the national police force has placed him in jeopardy of retribution by residual elements of the guerilla forces.

Although petitioner claims that he was persecuted on account of his status as a *former* member of the national police, the IJ found that he was persecuted because his persecutors believed petitioner to be a *current* member of the national police. Because current status as a police officer is not a cognizable protected group under the Immigration and Nationality Act ("INA"), *see Cruz-Navarro v. INS*, 232 F.3d 1024, 1028-29 (9th Cir. 2000), the IJ found that petitioner was not persecuted *on account of* membership in a protected social group. That finding is not erroneous and is supported by substantial evidence. Accordingly, the petition for review is denied.

Petition denied.